

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

FEDERAL TRADE COMMISSION,

Plaintiff,

vs.

MATCH GROUP, INC., a corporation,
and
MATCH GROUP, LLC, formerly known
as
MATCH.COM, LLC, a limited liability
company,

Defendants.

Case No. 3:19-cv-02281-K

**ORDER REGARDING
DISCOVERY OF ELECTRONICALLY STORED INFORMATION**

1. PURPOSE

This Order will govern discovery of electronically stored information (“ESI”) in this case as a supplement to the Federal Rules of Civil Procedure and any other applicable orders and rules.

2. COOPERATION

The parties are aware of the importance the Court places on cooperation, and commit to cooperate in good faith throughout the matter.

3. SEARCH

The parties agree that after responding in writing to requests to produce pursuant to Fed. R. Civ. P. 34, where appropriate, they will meet and confer about methods to

search ESI in order to identify ESI that is subject to production in discovery and filter out ESI that is not subject to discovery.

4. PRODUCTION FORMATS

The parties agree to provide load-ready electronic productions with:

- a. A delimited data load file (.DAT) containing a line for every document, unique id number for every document (DocID), metadata fields, and native file links where applicable; and
- b. A document level text file, named for the DocID, containing the text of each produced document.

Except as noted below, the parties agree to produce documents in native format with all metadata and either document level extracted text or Optical Character

Recognition (OCR) whenever possible, in near-native format when native is not possible, and, if neither format is technologically feasible, TIFF files with metadata and extracted text. For each document submitted electronically, the parties will produce the standard metadata fields shown in Exhibit A in a standard delimited data load file. The parties will use these standard Concordance delimiters in delimited data load files:

Description	Symbol	ASCII Character
Field Separator	¶	20
Quote Character	␣	254
Multi Entry delimiter	®	174

<Return> Value in data ~ 126

For email ESI, the parties agree to produce as native or as TIFF files with metadata and extracted text. Attachments will be produced as separate documents and the parent/child relationship between email and attachments will be preserved. For multimedia ESI, the parties agree to discuss the production format. For materials available only in “hard” format—e.g., on paper—the parties agree to produce in a PDF format, with searchable text embedded in the PDF, or if not technologically feasible, as single-page TIFF files with metadata and extracted, searchable text. For ESI available only in a format accessible through proprietary software not available to the general public, the parties agree to confer about production. For Microsoft Excel, Access, or PowerPoint files, the parties agree to produce in native format with extracted text and metadata. The parties agree that data compilations in Excel spreadsheets or delimited text formats must contain all underlying data, formulas, and algorithms without redaction (except for privilege).

If particular documents warrant a different format, the parties will cooperate to arrange for the mutually acceptable production of such documents.

The parties agree to global deduplication across custodians, by using hash value (MD5 or SHA-1). The names of all custodians that had a copy of deduplicated documents shall be preserved and included in a metadata field.

The parties agree to use email threading software as part of production.

The parties agree not to degrade the searchability of documents as part of the document production process.

The parties need not re-produce in discovery documents that were already produced to the FTC in response to the FTC's CID. Instead, the parties will refer to the bates number of the relevant documents.

5. PHASING

When a party propounds discovery requests pursuant to Fed. R. Civ. P. 34, the parties agree, if appropriate, to discuss phasing the production of ESI (e.g., phasing by ESI source or type).

6. DOCUMENTS PROTECTED FROM DISCOVERY

- a. Pursuant to Fed. R. Evid. 502(d), the production of a privileged or work-product-protected document, whether inadvertent or otherwise, is not a waiver of privilege or protection from discovery in this case or in any other federal or state proceeding. For example, the mere production of privileged or work-product-protected documents in this case is not itself a waiver in this case or in any other federal or state proceeding. Nothing in this Order shall be interpreted to limit the applicability of Fed. R. Evid. 502(d).
- b. The parties shall take reasonable steps to prevent the disclosure of privileged or work product material (together, "protected" material). In the event of such disclosure, the parties shall follow the procedures set

forth in Fed. R. Civ. P. 26(b)(5)(B) and herein for materials produced in discovery in this action by both parties and nonparties.

- c. If a receiving party discovers material produced to it by a party or nonparty in this action that the receiving party reasonably believes to be protected material, the receiving party shall promptly notify the producing party in writing and segregate that material (or the protected portion) until it receives a response from the producing party or the passage of seven days, whichever is earlier. If, after such notice, the party that produced the material fails within seven days to state its position about the privileged or protected status of the material, the receiving party may deem all claims of privilege of protection for that material waived.
- d. If a producing party discovers that it has disclosed protected material to another party, it shall (1) notify the receiving party in writing within seven days after such discovery, and (2) take prompt reasonable steps to identify any other protected material that it also may have disclosed. If the producing party fails to notify the receiving party within seven days of its disclosure of the protected material and state its position about the privileged or protected status of the material, the receiving party may deem all claims of privilege of protection for that material waived.

- e. If the parties disagree about the applicability of any asserted privilege or other protection for material that the producing party contends is protected material and should not have been disclosed, the parties shall promptly meet and confer to resolve the issue. If the parties cannot resolve the issue, the party that produced the material shall have the obligation to raise that dispute to the Court and shall exercise reasonable diligence in doing so.
- f. Any party's return, sequester, or destruction of any material pursuant to this Order or the procedures set forth in Fed. R. Civ. P. 26(b)(5)(B) does not waive any right to challenge the assertion of privilege or other protection for that material in any litigation.

7. MODIFICATION

This Order may be modified only upon motion to the Court upon the parties' agreement or for good cause shown.

SO ORDERED.

Signed August 29th, 2022.



ED KINKEADE
UNITED STATES DISTRICT JUDGE

EXHIBIT A

Standard Metadata Fields

DAT FILE FIELDS	DEFINITIONS	POPULATE FIELD FOR:
DocID	Unique ID number for each document	All Documents
FamilyID	Unique ID for all documents in a family including parent and all child documents	All Documents
ParentID	Document ID of the parent document. This field will only be populated on child items	All Documents
File Path	Path to produced native file	All Documents
TextPath	Path to document level text or OCR file	All Documents
Custodian	Name of the record owner/holder	All Documents
AllCustodians	Names of all custodians that had copy of this record (populate if data was deduplicated or email threading was used)	All Documents
Source	Source of documents: CID, Subpoena, Third Party Data, etc.	All Documents
Filename	Original file name	All Documents
File Size	Size of documents	All Documents
File Extensions	Extension of file type	All Documents
MD5 Hash	Unique identifier for electronic data used in de-duplication	All Documents
PRODUCTION_VOLUME	Production Volume	All Documents
HASREDACTIONS	Redacted document	All Documents
Exception Reason	Reason for exception encountered during processing (e.g., empty file, source file, password-protected file, virus)	All Documents
PRODBEG	Beginning production bates number	Documents with Produced Images
PRODEND	Ending production bates number	Documents with Produced Images
PRODBEG_ATTACH	Beginning production family bates number	Documents with Produced Images
PRODEND_ATTACH	Ending production family bates number	Documents with Produced Images
Page Count	The number of pages the document contains	Documents with Produced Images
From	Names retrieved from the FROM field in a message	Emails
To	Names retrieved from the TO field in a message; the recipient(s)	Emails
CC	Names retrieved from the CC field in a message; the copied recipient(s)	Emails
BCC	Names retrieved from the BCC field in a message; the blind copied recipient(s)	Emails
EmailSubject	Email subject line	Emails
Date Sent	The date an email message was sent	Emails
Time Sent	The time an email message was sent	Emails
Date Received	The date an email message was received	Emails
Time Received	The time an email message was received	Emails
Author	File Author	Loose Native Files and Email Attachments
Title	File Title	Loose Native Files and Email Attachments
Subject	File Subject	Loose Native Files and Email Attachments
Date Created	Date a document was created by the file system	Loose Native Files and Email Attachments
Time Created	Time a document was created by the file system	Loose Native Files and Email Attachments

Date Modified	Last date a document was modified and recorded by the file system	Loose Native Files and Email Attachments
Time Modified	Last time a document was modified and recorded by the file system	Loose Native Files and Email Attachments
Date Printed	Last date a document was printed and recorded by the file system	Loose Native Files and Email Attachments
Time Printed	Last time a document was printed and recorded by the file system	Loose Native Files and Email Attachments

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